

STATE OF NEBRASKA

DEPARTMENT OF NATURAL RESOURCES

ORDER OF PARTIAL CANCELLATION AND ASSIGNMENT

OF WATER APPROPRIATION A-365R (P-270)

WATER DIVISION 1-A

BACKGROUND

1. Water appropriation A-365R (P-270) is a permit held by Gering Irrigation District (District) with a priority date of March 15, 1897, and authorizes the District to divert 192.56 cubic feet per second (cfs) of water from the North Platte River through the Mitchell-Gering Canal at a headgate located in Section 10, Township 23 North, Range 60 West of the 6th P.M. in Wyoming for irrigation of 13,469.15 acres.

The District also receives supplemental water under a Warren Act Contract held by the U.S. Bureau of Reclamation (Reclamation), based on a contract between the two entities. The contract allows use of water only for those lands irrigated within the District.

2. On November 30, 2009, the Department issued an order of partial cancellation and assignment for A-365R (P-270) that resulted in a balance of 1.1 acres with a corresponding grant of 0.02 cfs not assigned.

3. On November 8, 2013, the District and individual landowners filed in the Department, Relinquishments of Water Appropriation In Part, REL-4855 through REL-4858, to relinquish the right to divert a portion of the water under A-365R (P-270) from the North Platte River through the Mitchell-Gering Canal for use upon the lands described below:

Relinquishment Number	Subsection	Section	Township	Range	Parcel Legal Description	Acres
REL-4855	NW $\frac{1}{4}$ SE $\frac{1}{4}$	1	21	55W	Lot 2, Blk B-Gering Industrial Tracts, Subdivision Blk B	1.20
REL-4856	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2	21	55W	Blk 2-Oregon Trail Park 2 nd Addition	3.44
	SE $\frac{1}{4}$ SW $\frac{1}{4}$	35	22	55W	Blk 8-Northfield 1 st Addition	35.00
REL-4857	SW $\frac{1}{4}$ SW $\frac{1}{4}$	35	22	55W	Pt. Tax Lot 43- NE $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$	5.29
REL-4858	SE $\frac{1}{4}$ SE $\frac{1}{4}$	34	22	55W	Pt. SE $\frac{1}{4}$ SE $\frac{1}{4}$	1.32
Total						46.25

4. Pursuant to Neb. Rev. Stat. § 46-229.04(5) the District may assign, within 5 years of the Order of Cancellation by the Department, the relinquished portion of an appropriation.
5. The Department acknowledges the Notification of Assignment of Rights, AOR-4854 filed by the District on November 8, 2013, to assign a portion of appropriation A-365R (P-270) previously relinquished to the land described below. The location of these lands is shown on the aerial photographs submitted with AOR-4854.

Township 21 North, Range 54 West of the		
6 th P.M. Scotts Bluff County		Acres
Section 24:	NW $\frac{1}{4}$ SE $\frac{1}{4}$	16.50
	NE $\frac{1}{4}$ SE $\frac{1}{4}$	<u>29.50</u>
	TOTAL	46.00

ORDER

IT IS HEREBY ORDERED:

1. Based on the Relinquishments of Water Appropriation In Part, REL-4855 through REL-4858, part of appropriation A-365R (P-270) in the amount of 0.66 cfs for the right to irrigate the 46.25 acres of land described in paragraph 3 above is CANCELLED. The location of these lands is shown on the aerial photographs submitted with REL-4855 through REL-4858.
2. With AOR-4854 the District assigned 46.0 acres under appropriation A-365R (P-270) to the land listed in paragraph 5 above. This leaves an unassigned balance of 1.35 acres (with a corresponding diversion rate of 0.02 cfs that will not be served under the appropriation. The District may assign the relinquished portion of an appropriation within 5 years of the Order of Cancellation by the Department.
3. The following is a summary of A-365R (P-270) as a result of the District's filings in the Department before and after this Order:

Appropriation Number	Appurtenant Portion Prior to this Order		Available for Assignment Prior to this Order		Amount Relinquished in this Order		Amount Assigned in this Order		Total Available for Assignment after this Order	
	Acres	Grant	Acres	Grant ¹	Acres	Grant ¹	Acres	Grant ¹	Acres	Grant
A-365R (P-270)	13,469.15	192.56	1.1	0.02	46.25	0.66	46.0	0.66	1.35	0.02

¹ Rounded to the nearest hundredth

4. The right to divert 192.56 cfs from the North Platte River under A-365R (P-270) via the Mitchell-Gering Canal for use upon 13,468.90 acres shall remain IN FULL FORCE AND EFFECT.
5. All terms and conditions of appropriation A-365R (P-270) remain in effect unless specifically changed by this Order.

6. The appropriator must comply with all relevant statutes. This includes, but is not limited to, the following:
- A. Receiving approval prior to taking any action that changes the location of the point of diversion, a transfer of the location of the place of use, a relinquishment of a portion of the appropriation, the type of use, or the type of appropriation.
 - B. Notify the Department of Natural Resources of any reassignment of relinquished portions of an appropriation.
 - C. Comply with all relevant notices and orders of the Department.

ADDITIONAL INFORMATION

Failure to comply with all laws and regulations pertaining to surface water appropriations and any orders issued by the Director of the Department of Natural Resources may result in the cancellation of the appropriation, temporary closing of the appropriation, administrative penalty, criminal prosecution, or any combination thereof.

Nebraska law provides that failure to use a portion or all of a perfected appropriation for five consecutive years may result in cancellation of the appropriation.

DEPARTMENT OF NATURAL RESOURCES

March 11, 2014


Brian P. Dunnigan, P.E., Director

The applicant and any person with sufficient legal interest who has been or may be substantially affected by this order may request a contested case hearing in accordance with the Nebraska Administrative Procedures Act (Sections 84-901 et. seq. RSS) and the Department's Rules of Practice and Procedure (454 N.A.C. Chapter 007). The request must be received by the Department at its Lincoln office (301 Centennial Mall South, 4th Floor State Office Building, Lincoln, NE 68509-4676) within 30 days of the date of the order and be accompanied by a filing fee of \$10.

A copy of this Order was posted on the Department's website and provided to the Department's field office in Bridgeport, Nebraska. A copy of this approval was mailed on March 11, 2014, to the following:

Gering Irrigation District
981 Rundell Road
Gering, Nebraska 69341-3729

Coleman Smith, Area Manager
U.S. Bureau of Reclamation
P.O. Box 1630
Mills, Wyoming 82644